REMARKS

Applicant appreciates the time taken by the Examiner to review Applicant's present application. This application has been carefully reviewed in light of the Official Action mailed August 29, 2007. This Reply encompasses a bona fide attempt to overcome the rejections raised by the Examiner and presents amendments as well as reasons why Applicant believes that the claimed invention, as amended, is novel and unobvious over the applied prior art. Accordingly, Applicant respectfully requests reconsideration and favorable action in this case.

Specification and Claim Status

Applicant hereby acknowledges the Examiner's withdrawal of the objection to the specification, the objection to claim 13, and the rejection to claim 2. Pending claims 1, 3-12, 14-23, and 24-33 were rejected. Claims 1, 12, and 23 are amended herein. Applicant respectfully submits that these amendments do not add new matter. Claims 1, 3-12, 14-23, and 24-33 remain pending.

Interview Summary

A telephonic Examiner Interview occurred on November 6, 2007 between Examiner Hussain and Applicant's representatives Katharina Schuster and Robert Villhard, during which Applicant's representatives explained distinguishing features of Claim 1 and the prior art. Examiner Hussain indicated that a new search would be necessary. Applicant appreciates the time taken by Examiner Hussain to discuss the claims and review Applicant's application.

Claim Interpretation

The Examiner chose to examine Claim 1 as reciting "wherein each of the streams is a logical data source comprising one or more servers wherein each server has hosts, data locations, or a combination thereof." Applicant believes that the Examiner's interpretation of Claim 1 has been rendered moot by the amendments submitted herewith.

Rejections under 35 U.S.C. § 103

Claims 1, 3-5, 12, 14-16, 23 and 25-27 were rejected under 35 U.S.C. §103(a) as being unpatentable over a new combination of U.S. Patent No. 6,754,184 (hereinafter "Miyano") and U.S. Patent Application Publication No. 2002/0057675 (hereinafter "Park"). The rejection is respectfully traversed. Independent Claims 12 and 23 recite limitations similar to those of Claim 1. Thus, traversal to the rejection will be collectively discussed herein with regard to Claim 1.

As to independent Claim 1, the Examiner states that Miyano discloses:

> defining a first stream and a second stream from a network topology (Miyano, Fig. 21, Element 8-1 and 8-2, [0002]) wherein each of the streams is a logical data source comprising a grouping of one or more physical components of the network topology (Miyano, Fig. 21, [0030]) associating incoming data with one of the streams based on a source of the incoming data (Miyano, Fig. 1, [0003])

The Examiner also states that Miyano is silent on calculating a data loss for each stream wherein the data loss is calculated between a next event and a last event in the stream and processing each stream based upon the calculated data loss. With regard to this last statement, Applicant agrees with the Examiner.

However, the Examiner believes that Park discloses calculating a data loss for each stream wherein the data loss is calculated between a next event and a last event in the stream (Park, Fig. 2, [0026]) and processing each stream based upon the calculated data loss (Park, Fig. 2, [0026]). The Examiner further states that it would have been obvious "to combine the teachings of Miyano with the teachings of Park in order to provide a system in which a voice receiving part can request to retransmit the voice data packets based on the data loss rate of the voice data packets received." See Office Action, page 4.

Applicant respectfully disagrees and submits that the proposed combination of Miyano and Park fails to disclose all of the limitations of Claim 1, some of which are made more evident by the amendments presented herein. As amended, Claim 1 recites:

> A method for detecting gaps in data, comprising:
> defining at least a first stream and a second stream from a network topology which represents a logical website,
> wherein each of the streams is a logical data source comprising one or more servers,
> wherein each server has hosts, data locations, or a combination thereof associated with the server, and

> wherein each server is responsible for running a different portion of the logical website;
>
> associating incoming data with one of the streams based on a source of the incoming data, wherein the source is one of the one or more servers or one of the hosts or data locations associated therewith;
>
> calculating a data loss for each stream, wherein the data loss is calculated between a next event and a last event in the stream; and
>
> determining whether each stream has a gap based upon the calculated data loss.

In contrast, Miyano describes that among apparatuses connected to the IEEE1394 serial bus, three types are defined: S100 having a data transmission rate of 98.308 Mbps, S200 having a data transmission rate of 196.608 Mbps, and S400 having a data transmission rate of 392.216 Mbps (Miyano [0003] i.e., column 1, lines 37-42). Thus, Miyano describes three types of apparatus connected to an IEEE1394 serial bus. Applicant respectfully submits that Miyano does not appear to disclose, teach or suggest at least the limitation of "associating incoming data with one of the streams from a network topology which represents a logical website based on a source of the incoming data, wherein the source is one of the servers, or one of the hosts or data locations associated therewith," as set forth in Claim 1.

Park describes that an:

> Internet telephone communication system includes a receiving protocol processor 208 for receiving the voice data packets transmitted through an internet network 207 and extracting the compressed voice data; a data eliminator 209 for leaving only one set of voice data and eliminating all other voice data (Park [0026]).

Thus, Park describes a system for receiving one set of voice data at a time. Applicant has searched Park in vain for a disclosure, teaching, or suggestion of at least the limitation of "associating incoming data with one of the streams from a network topology which represents a logical website based on a source of the incoming data, wherein the source is one of the servers, hosts, or data locations of the network topology" as set forth in Claim 1.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success.

Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaech*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Since neither reference teaches at least this limitation, Applicant respectfully submits that the proposed combination of Miyano and Park fails to render Claim 1 obvious. Accordingly, Applicant respectfully requests that the rejection of Claim 1 and the dependent Claims 3-5 be withdrawn. For similar reasons, Applicant also requests that the rejection of Claims 12, 14-16, 23 and 25-27 be withdrawn.

With regard to the rejection of Claims 6-11, 17-22, and 28-33 under 35 U.S.C. §103, the Applicants respectfully submits that the arguments presented above with respect to the Miyano and Park references apply equally well here. Accordingly, the withdrawal of the rejection of Claims 6-11, 17-22, and 28-33 is respectfully requested.

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Conclusion

Applicant has now made an earnest attempt to place this case in condition for allowance. Other than as explicitly set forth above, this reply does not include any acquiescence to statements, assertions, assumptions, conclusions, or any combination thereof in the Office Action. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 1, 3-12, 14-23, and 25-33. The Examiner is invited to telephone the undersigned at the number listed below for prompt action in the event any issues remain.

The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3183 of Sprinkle IP Law Group.

Respectfully submitted,

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